

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. SWO-2009-5
SALLY E. FITZGERALD,)	
License No. LMSW-1493,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
Respondent.)	FINAL ORDER
)	

Having reviewed the documents and correspondence contained in the administrative file in this matter, the Idaho State Board of Social Work Examiners (the "Board") hereby enters the following Findings of Fact, Conclusions of Law, and Final Order:

FINDINGS OF FACT

1. Respondent Sally E. Fitzgerald ("Respondent") is a duly licensed social worker in the State of Idaho holding License No. LMSW-1493. On or about January 23, 2009, the Board received a complaint that Respondent was involved in an intimate relationship with K.H., a former client. On February 5, 2009, upon Respondent's request, Respondent's license was canceled. However, pursuant to Idaho Code § 67-2614, Respondent retained the right to renew her license for up to five (5) years after cancellation by paying the required fees.

2. On February 25, 2009, Respondent voluntarily surrendered her license admitting to violations of the Social Work License Act, title 54, chapter 32, Idaho Code, and the rules promulgated by the Board. A true and correct copy of the voluntary surrender form signed by Respondent is attached hereto as Exhibit A.

3. Respondent knowingly and freely waived her right to a hearing and all rights granted to Respondent pursuant to the Administrative Procedures Act, chapter 52, title 67, Idaho Code, as well as all license renewal rights provided pursuant to Idaho Code § 67-2614.

CONCLUSIONS OF LAW

1. As a licensed social worker in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of the Social Work License Act, title 54, chapter 32, Idaho Code, and the rules and regulations promulgated by the Board thereunder, at IDAPA 24.14.01, *et seq.* (the "Board Rules").

2. The allegations in the complaint, if proven, would constitute violations of the Social Work License Act and Board Rules and constitute grounds for revocation of Respondent's license to practice social work pursuant to Idaho Code § 54-3211(6) (unprofessional conduct) and Board Rules 450.01.h (social workers shall not exploit their professional relationships with a client or former client) and 450.01.i (social workers shall not engage in sexual acts with a client or with a person who has been a client within the past three (3) years).

3. Pursuant to Idaho Code § 54-3211 the Board is authorized to revoke Respondent's license and renewal rights and take other disciplinary action without further process, in accordance with Respondent's voluntary surrender of licensure.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, based upon the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, that License No. LMSW-1493 issued to Respondent Sally E. Fitzgerald, including all license renewal rights, is hereby REVOKED.

IT IS FURTHER ORDERED that Respondent shall pay the Board the investigative costs and attorney fees incurred by the Board in this matter in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) within sixty (60) days of the date of this Order.

IT IS FURTHER ORDERED that Respondent shall not be granted licensure in response to any new application for a minimum of five (5) years from the date of this Order. Should Respondent apply for licensure at any time thereafter as a new applicant,

Respondent shall be required to take and pass the examination required of all new applicants for licensure and, additionally, shall present the following information to the Board with her application for licensure:

1. Respondent shall provide certified transcripts to the Board showing satisfactory completion of fifteen (15) hours of continuing education following the date of this Order, covering the following subject matters:

a. Ethics and boundaries between the social worker and clients/former clients; and

b. Interpersonal relationships between the social worker and clients/former clients, including issues of power and influence that the social worker inherently has over clients/former clients.

Respondent must receive prior approval by the Board as to both the institution and coursework for which she is seeking credit.

2. Respondent shall establish that she has undergone individual counseling by a licensed mental health care professional, at Respondent's own expense, to address the circumstances giving rise to Respondent's personal relationship with her former client K.H. Prior to beginning counseling, Respondent must obtain approval from the Board of the proposed mental health care provider. At the beginning of counseling, Respondent shall provide a copy of this Order to the approved licensed mental health care provider.

3. In light of the allegations of the complaint, Respondent shall provide to the Board a written report by a mental health professional ("reviewer") evidencing Respondent's ability to safely practice in compliance with the laws and rules governing social workers in Idaho. The report shall be based upon the reviewer's evaluation of Respondent which, at a minimum, shall consider Respondent's personal relationship with her former client K.H. including, without limitation, the circumstances giving rise to that relationship. The mental health professional shall be pre-approved by the Board. Prior to

the evaluation, Respondent shall provide a copy of this Order to the approved reviewer. The evaluation and report shall be at Respondent's own expense.

4 The Board retains all rights to deny any future application by Respondent for licensure. Should the Board grant a license upon a showing of successful completion of the requirements above, the Board may grant licensure to Respondent upon the following terms:

a. Respondent shall be placed on supervised probation for a period of two (2) years. The conditions of probation shall include the following:

i. The supervisor shall be a Licensed Clinical Social Worker or other licensed mental health care provider acceptable to the Board. Both the supervisor and the site of the supervised practice must receive pre-approval by the Board.

ii. Respondent shall be supervised at a rate of one (1) hour of face-to-face supervision for every thirty (30) hours of client contact. Respondent shall provide a copy of this Order to the supervisor. During the course of the supervision, the supervisor shall review Respondent's professional relationships with clients and address with Respondent ethical issues relating to the practice of social work, including without limitation, maintaining appropriate boundaries with clients and former clients. The supervisor shall provide a report to the Board at the end of each six-month period during the supervised probation concerning Respondent's performance.

iii. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of social work in the State of Idaho.

iv. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate

whether Respondent intends to return. Periods of time spent outside Idaho will not apply to satisfy the probationary period or excuse compliance with the terms of probation.

v. Respondent shall fully cooperate with the Board and its agents, including submitting any information within a reasonable time after a request is made. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

vi. At the conclusion of the two-year probationary period, Respondent may request that the Board terminate the probationary status. The Board shall terminate Respondent's probation upon evidence deemed sufficient by the Board that Respondent has satisfied all of the conditions of probation.

b. The Board retains discretion to impose additional restrictions upon any license granted to Respondent, as the Board deems appropriate.

This order is effective immediately.

DATED this 6 day of April, 2009.

IDAHO STATE BOARD OF
SOCIAL WORK EXAMINERS

By Christiane Magera
Christiane Magera, Chair

NOTICE OF DUE PROCESS RIGHTS

NOTE: THIS NOTICE IS PROVIDED SOLEY FOR COMPLIANCE WITH IDAHO CODE § 67-5248, AND IS NOT INTENDED TO REINSTATE ANY RIGHTS PREVIOUSLY WAIVED BY RESPONDENT.

This is a final order of the Board. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Board will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- a. A hearing was held,
- b. The final Board action was taken,
- c. The party seeking review of the order, resides, or
- d. The real property or personal property that was the subject of the Board action is located.

An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

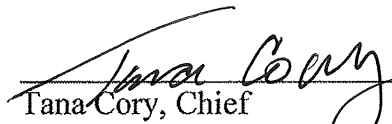
I HEREBY CERTIFY that on this 6th day of April, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Sally E. Fitzgerald
10732 W. Tahiti
Boise, ID 83713

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Tana Cory, Chief
Bureau of Occupational Licenses

IDAHO BUREAU OF OCCUPATIONAL LICENSES

VOLUNTARY SURRENDER OF REGISTRATION/LICENSE

I, SALLY E. FITZGERALD, hereby voluntarily surrender my registration/license to practice as a Social Worker in the State of Idaho. I agree and consent that the surrender of my registration/license to practice is done without an order, order to show cause, hearing, or any other proceeding compelling its surrender. In view of my failure to comply with Idaho Law, title 54, chapter 32, Idaho Code, and the rules promulgated by the Board of Social Work Examiners ("Board"), and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part, I voluntarily surrender my registration/license to practice in the State of Idaho and agree to immediately discontinue the practice of Social Work in this state.

I understand that I have the right to a hearing, the right to confront and cross-examine witnesses, the right to present evidence and testimony on my behalf, the right to appeal and all other rights accorded to me by the Idaho Administrative Procedures Act, title 67, chapter 52, Idaho Code, and the laws and rules governing the practice of Social Work, title 54, chapter 32, Idaho Code. I hereby freely and knowingly waive these rights without further process as a resolution of any claims or allegations which might otherwise be brought against me by the Board. I further waive any registration/license renewal rights provided by Idaho Code § 67-2614.

I acknowledge that in surrendering my registration/license to practice, I am not making any admissions; however, I specifically waive the right to contest this relinquishment in any subsequent proceeding. I acknowledge that the Board has jurisdiction to proceed against my registration/license pursuant to Idaho Code § 54-3210. I understand that the Board may enter an order either revoking or suspending my registration/license to practice based upon my voluntary surrender of my registration/license, which order may include a civil penalty and/or the imposition of costs and fees incurred by the Board in its investigation and prosecution of any claims or allegations against me, and I hereby consent to the imposition of such discipline.

I understand and acknowledge that by surrendering my registration/license to practice, all of the privileges associated with said registration/license are hereby surrendered until such time as I am again properly registered/licensed. I understand that to regain a registration/license to practice in the State of Idaho, I must re-apply to the Board pursuant to the provisions of title 54, chapter 32, Idaho Code, and all applicable rules and orders entered by the Board. I understand and agree that any decision regarding reinstatement of my registration/license is a discretionary decision for the Board. I understand and agree that the Board may rely on factors set forth in this document or other than those set forth in this document as grounds for denial of a petition for reinstatement of my registration/license or any registration/license application that I may submit.

I waive refund of any payments made by me in connection with my registration/license under the Social Work Act and any rules promulgated thereunder.

Name of Registrant/Licensee: Sally E. Fitzgerald Registration/License No.: LMSW-1493

Address: 10732 W Tahiti Buise Id 83713
street city zip

Signature of Registrant/Licensee or Authorized Individual: [Signature]
Date: 2/25/09

Signature of Witness: [Signature] Date: 2/25/09

Exhibit A
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